

NOTICES OF EMERGENCY RULEMAKING

Under the Administrative Procedure Act, an agency may determine that adoption, amendment, or repeal of a rule is necessary for immediate preservation of the public health, safety or welfare and the notice and public participation requirements are impracticable. Under this determination, the agency may adopt the rule as an emergency and submit it to the Attorney General for review. The Attorney General approves the rule and then files it with the Secretary of State. The rule takes effect upon filing with the Secretary of State and remains in effect for 180 days. An emergency rule may be renewed for 1 or 2 180-day periods if the requirements of A.R.S. § 41-1026 are met. If the emergency rule is not renewed or the rule is not permanently adopted by the end of the 180-day period, the emergency rule expires and the text of the rule returns to its former language, if any.

NOTICE OF EMERGENCY RULEMAKING

TITLE 20. COMMERCE, BANKING, AND INSURANCE

CHAPTER 1. DEPARTMENT OF COMMERCE

PREAMBLE

- | | |
|-------------------------------------|----------------------------------|
| <u>1. Sections Affected:</u> | <u>Rulemaking Action:</u> |
| Article 3 | New Article |
| R20-1-301 | New Section |
| R20-1-302 | New Section |
| R20-1-303 | New Section |
| R20-1-304 | New Section |
| R20-1-305 | New Section |
| R20-1-306 | New Section |
| R20-1-307 | New Section |
| R20-1-308 | New Section |
| R20-1-309 | New Section |
- 2. The specific authority for the rulemaking, including both the authorizing statute (general) and the statutes the rules are implementing (specific):**
- Authorizing statute: A.R.S. § 41-1504 (b) (4)
- Implementing statute: A.R.S. §§ 1-215, 41-1516
- 3. The effective date of the rules:**
- August 10, 2001
- 4. Is this rulemaking a renewal of a previous emergency rulemaking?**
- No
- 5. The name and address of agency personnel with whom persons may communicate regarding the rulemaking:**
- | | |
|------------|--|
| Name: | Joan E. Laurence |
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Phoenix, AZ 85012 |
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- 6. An explanation of the rule, including the agency's reasons for initiating the rule:**
- Since the mid 1990s, the Legislature has created several alternative fuel tax incentives and grants to encourage the use of alternative fuel and the purchase, lease, or conversion of alternative fuel vehicles. The goal of the Diesel Vehicle Alternative Fuel Grant Program is to lower on-road vehicle emissions by reducing the number of large diesel vehicles in Arizona.

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The statute authorizes the Arizona Department of Commerce, until October 1, 2001, to provide grants to individuals and businesses that between January 1 and October 20, 2000, had a purchase order or entered into a contract to convert a diesel vehicle with a Gross Vehicle Weight Rating of 19,500 pounds or more to run on alternative fuel. The second phase of the program provides grants to applicants who have entered into a purchase order or contract, on or after January 1, 2000, to convert a diesel vehicle with a Gross Vehicle Weight Rating of 19,500 pounds or more to run on alternative fuel. This phase of the program adds requirements regarding registration for three years and usage more than 50 percent of the time in non-attainment areas of the state.

Under the first phase, the grant for replacement or conversion of a diesel vehicle is for the greater of \$30,000 or 30% of the original manufacturer's base retail price. For phase two, the grant is for the actual cost of conversion or \$30,000, whichever is less.

This rule package implements statutory requirements by providing specific guidance and procedures for applicants. These rules will ensure fairness by establishing procedures for processing applications and awarding grants and will ensure consistency with the alternative fuel vehicle (AFV) rule already in place.

7. A showing of good cause why the rule is necessary to promote a statewide interest if the repeal of the rule will diminish a previous grant of authority of a political subdivision of this state:

Not applicable

8. The summary of the economic, small business, and consumer impact statement:

The economic impact on Arizona small businesses and the public as a result of the proposed rule is minimal in terms of cost and time resources. The proposed rule requires vehicle dealers and conversion vendors to provide grant applicants with certain AFV certification documents and verify that documentation, if necessary. The costs to provide copies of documentation for an application and the time to compile the required documentation and complete the application will minimally affect the small businesses and the public applying for a grant. The costs for additional staff to process applications, to verify compliance with the rules, and to establish eligibility will substantially affect the Department of Commerce. The costs for developing communication materials and forms, printing, and mailing will moderately affect the Department.

9. Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules:

Not applicable

10. Incorporations by reference and their location in the rules:

Not applicable

11. An explanation of the situation justifying the rule's adoption as an emergency rule:

Although it created the initial Alternative Fuel Vehicle Grant program in 1999, the Legislature did not enact the portion of the statute authorizing this diesel vehicle grant program until December 2000. The Legislature introduced amendments to the statute in January 2001 and enacted amendments both on April 21, 2001, and again on May 8, 2001. The first amendments significantly changed the time frame for awarding grants and the procedures the Department could use to prioritize applications. The current statute authorizes the Department to award grants through September 30, 2001, for phase one of the program. To meet this statutory timeline, the Department has developed and will release application materials as soon as the Attorney General approves the rules. Going through the regular rule-making process would make it impossible to issue any grants to the first group of applicants.

This rulemaking meets the required statutory criteria specified in A.R.S. § 41-1026(A). An emergency rulemaking is necessary to:

1. Comply with deadlines in amendments to the Department's governing law,
2. Avoid violation of other state law, and
3. Avoid serious prejudice to the public interest or the interest of the parties concerned.

Without emergency rules, the Department will not be able to meet the statutory requirement of providing grants.

Further, the timeline inherent in the regular rulemaking process will cause serious prejudice to the public interest. Rules would not be in place before October 1, 2001, under the regular rulemaking process. Even though the Department has not delayed the implementation of this program or the rule making, it has already heard from applicants who report they are undergoing financial hardship because of what they see as delays in awarding grants. Emergency rules will ensure that the financial interests of these parties are not compromised.

12. The date of the Attorney General's approval of the emergency rule:

August 10, 2001

13. The full text of the rules follows:

TITLE 20. COMMERCE, BANKING, AND INSURANCE

CHAPTER 1. DEPARTMENT OF COMMERCE

ARTICLE 3. DIESEL VEHICLE ALTERNATIVE FUEL GRANT PROGRAM

Section

<u>R20-1-301.</u>	<u>Definitions</u>
<u>R20-1-302.</u>	<u>Limitation of Appropriated Grant Funds</u>
<u>R20-1-303.</u>	<u>Eligibility</u>
<u>R20-1-304.</u>	<u>Application Process for Applicants Eligible Under R20-1-303(A)</u>
<u>R20-1-305.</u>	<u>Application Process for Applicants Eligible Under R20-1-303(B)</u>
<u>R20-1-306.</u>	<u>Application Priority and Grant Awards for Applicants Qualifying Under R20-1-303(A)</u>
<u>R20-1-307.</u>	<u>Application Priority and Grant Awards for Applicants Qualifying Under R20-1-303(B)</u>
<u>R20-1-308.</u>	<u>Grant Amount</u>
<u>R20-1-309.</u>	<u>Protest</u>

ARTICLE 3. DIESEL VEHICLE ALTERNATIVE FUEL GRANT PROGRAM

R20-1-301. Definitions

The following definitions apply in this Article, unless the context otherwise requires:

1. "Alternative fuel" has the same meaning as its definition in A.R.S. § 1-215.
2. "Alternative fuel vehicle" means a self-propelled vehicle that is registered and titled in this state for operation on the highways and that is primarily propelled by an alternative fuel and includes bi-fuel, dual fuel and dedicated vehicles.
3. "Application availability date" means the date these rules become effective.
4. "Attachment not associated with the operation of the vehicle" means an item not required for the normal and basic use of the vehicle and includes items such as accessories relating to towing, accessories relating to specialized use of a vehicle, and items that are decorative rather than functional.
5. "Bi-fuel vehicle" means a vehicle that is capable of operating on both gasoline and an alternative fuel but does not include a vehicle that is capable of operating on a mixture of two or more fuel types.
6. "Contract" means a written agreement between two or more parties that creates for each party a duty to do or not do something.
7. "Conversion" means modification of a diesel vehicle to operate on an alternative fuel.
8. "Dedicated vehicle" means a vehicle that is capable of operating only on a single alternative fuel.
9. "Department" means the Department of Commerce.
10. "Diesel vehicle" means a vehicle that operates only on diesel fuel.
11. "Director" means the Director of the Department of Commerce.
12. "Dual-fuel vehicle" means a vehicle designed to operate on a combination of an alternative fuel and a conventional fuel including a vehicle capable of operating on either or both, simultaneously using two fuel systems. A dual-fuel vehicle is considered an alternative fuel vehicle.
13. "Factory-manufactured alternative fuel vehicle" means a vehicle that meets the requirements for an alternative fuel vehicle at the time possession is transferred from the manufacturer to a dealer and the alternative fuel vehicle status is specified on manufacturer's invoice or other manufacturer documentation.
14. "GVWR" means the gross vehicle weight rating, the maximum loaded weight for which the vehicle is designed, as specified by the vehicle manufacturer.
15. "MVD Alternative Fuel Certificate" means a form issued by the Arizona Department of Transportation Motor Vehicle Division certifying that the vehicle has been inspected and is equipped to operate on alternative fuel. An applicant shall obtain this Certificate from an:
 - a. Arizona Department of Environmental Quality waiver station.
 - b. ADOT Motor Vehicle Division location with an authorized inspector, or
 - c. Arizona Department of Environmental Quality licensed third-party inspector.
16. "New" means the vehicle was never registered and titled anywhere before its manufacture as an alternative fuel vehicle or conversion to operate on alternative fuel. However, when an applicant contracted to purchase a new vehicle and ordered its conversion at the same time and conversion occurs after the vehicle is registered and titled, the vehicle shall be deemed to be a new vehicle.

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17. "Original manufacturer's base retail price" means the lowest suggested retail price of the make and model of a new motor vehicle suggested by the manufacturer, excluding any amount paid for an item installed in the vehicle that was not identified in the dealer's wholesale invoice received from the vehicle manufacturer and that does not improve air quality in this state. For vehicles over 12,000 pounds gross vehicle weight, the manufacturer's base retail price does not include any charges for attachments not associated with operation of the vehicle.
18. "Purchase order" means a written instruction or authorization to buy goods or securities or to perform work.
19. "Replaced vehicle" means a diesel vehicle with a GVWR of 19,500 lbs. or greater that is owned by the applicant on the purchase order or contract date for the replacement vehicle.
20. "Replacement" means something that takes the place of, especially as a substitute or successor.
21. "Replacement vehicle" means an alternative fuel vehicle that has a GVWR equal to or greater than the replaced vehicle GVWR.
22. "State of Arizona Original Equipment Manufacturer Alternative Fueled Vehicle Emissions Certification Form" means a form available from the Department that a dealer selling an alternative fuel vehicle completes and gives to the purchaser.
23. "Used" means any vehicle other than a new vehicle.

R20-1-302. Limitation of Appropriated Grant Funds

If the Department reaches its grant award total of \$6.5 million for vehicles qualifying under R20-1-303(A), the Department shall send written notification within 10 working days of that fact to all those who have submitted an application packet under R20-1-304 but who did not receive a grant award. In the notification, the Department shall specify to the applicant that, if the applicant meets the qualifications in R20-1-303(B), the applicant may submit an application packet for grants under that phase of the program.

R20-1-303. Eligibility

- A.** If an applicant has a purchase order or contract that is dated on or after January 1, 2000, and before October 20, 2000, to convert or replace a diesel vehicle over 19,500 pounds GVWR and submits an application packet as specified in R20-1-304 before October 1, 2001, the Department shall award a grant to the applicant unless the Department has reached the funding limitation as specified in R20-1-302. If the Department reaches its funding limitation under this subsection, an applicant not receiving a grant under this subsection may submit an application packet as specified in R20-1-305 if the applicant meets the requirements specified in subsection (B) of this Section.
- B.** An applicant shall submit an application package as specified in R20-1-305 before May 31, 2003, if the applicant has a purchase order or contract that is dated on or after January 1, 2000, to convert a diesel vehicle and the vehicle has not been awarded a grant under R20-1-303(A):
1. Has a GVWR of at least 19,500 lbs;
 2. Is not a recreational vehicle as defined in A.R.S. § 28-3102;
 3. Is registered in this state;
 4. Will be registered in this state for at least three years from the date the vehicle is registered as an alternative fuel vehicle;
 5. Will be operated more than 50 percent of the time in area A or are B as defined in A.R.S. § 49-541; and
 6. Is subject to A.R.S. § 28-4032(A).

R20-1-304. Application Process for Applicants Eligible Under R20-1-303(A)

- A.** If an applicant meeting the eligibility requirements specified in R20-1-303(A) wishes to receive a grant under this Article, the applicant shall submit an application packet that contains:
1. A completed application form prescribed by the Department with the following information:
 - a. Applicant's status as an individual or a business;
 - b. Whether the grant request is for a vehicle conversion or replacement;
 - c. Applicant's name, address, and telephone number;
 - d. If applicant is an individual, the individual's:
 - i. Social Security number, and
 - ii. Arizona driver's license number;
 - e. If applicant is a business, the applicant's:
 - i. Taxpayer Identification number, and
 - ii. Authorized representative's name and title;
 - f. For replacement or conversion vehicles, the vehicle's:
 - i. Identification number,
 - ii. Year,
 - iii. Make,
 - iv. Model, and
 - v. GVWR;

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- g. Whether replacement or converted vehicle is:
 - i. Bi-fuel.
 - ii. Dual fuel, or
 - iii. Dedicated.
- h. The type of alternative fuel the replacement or converted vehicle uses:
 - i. Compressed natural gas-CNG.
 - ii. Liquid natural gas-LNG.
 - iii. Propane.
 - iv. Electric.
 - v. Solar, or
 - vi. Hydrogen;
- i. For replacement vehicles:
 - i. Where the applicant purchased or leased the vehicle, the contact for that transaction, and the contact's telephone number;
 - ii. The Arizona registration date; and
 - iii. The original manufacturer's base retail price; and
- j. For the replaced vehicle:
 - i. The vehicle identification number.
 - ii. The GVWR.
 - iii. The date replaced.
 - iv. Whether the applicant sold the vehicle or will no longer operate the vehicle and will not re-register it.
- k. For converted vehicles:
 - i. Where the applicant purchased or leased the vehicle, the contact for that transaction, and the contact's telephone number;
 - ii. The Arizona registration date;
 - iii. The original manufacturer's base retail price;
 - iv. The conversion vendor's name, contact person, and telephone number;
 - v. The conversion kit manufacturer and number;
 - vi. The conversion date; and
 - vii. The MVD Alternative Fuel Certificate date.
- 2. A signed and dated "Statement of Assurances" prescribed by the Department and notarized, under penalty of perjury:
 - a. The applicant owns or has leased the vehicle and has registered, titled, and insured the vehicle in Arizona;
 - b. The vehicle is either:
 - i. A diesel vehicle over 19,500 pounds GVWR that has been converted to operate on alternative fuel; or
 - ii. A replacement vehicle; and
 - c. The applicant agrees that, if the Statement of Assurances or the application packet are not truthful, correct, or complete, the Department may seek recourse or take remedial action in the Superior Court of Maricopa County, Arizona, with the applicant paying all costs of collection of any monies due the Department, including reasonable attorneys' fees.
- 3. W-9 Federal tax form (Request for Taxpayer Identification Number and Certification) with applicant's original signature and date;
- 4. A copy of the validated Arizona registration and Arizona title for the replacement or converted vehicle;
- 5. If vehicle is a replacement vehicle:
 - a. A statement that the applicant will no longer operate the replaced vehicle and will not re-register it; or
 - b. A dated Bill of Sale for the replaced vehicle;
- 6. A copy of the contract or purchase order documenting purchase, lease or conversion of the vehicle for which the applicant requests a grant;
- 7. If the vehicle is purchased, a copy of the finance agreement or of the receipt indicating payment in full;
- 8. If the vehicle is leased, a copy of the lease agreement;
- 9. For a factory-manufactured alternative fuel vehicle, a dealer-signed "State of Arizona Original Equipment Manufacturer Alternative Fueled Vehicle Emissions Certification Form";
- 10. For a vehicle converted to operate on alternative fuel:
 - a. An MVD Alternative Fuel Certificate.
 - b. The invoice for conversion including:
 - i. Conversion date, and
 - ii. Conversion kit manufacturer and kit number or serial number of conversion parts.
- B.** The Department may require verification of information provided, including original documents.
- C.** The Department shall review an application packet for completeness and grant eligibility.
 - 1. If an application packet is complete and the applicant meets eligibility requirements, the Department shall:

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- a. Determine vehicle's priority as specified in R20-1-306; and
- b. If funds are available based on vehicle's priority, issue a grant to applicant; or
- c. If funds are not available, notify applicant in writing that no grant funds remain.
- D.** If an application packet is not complete, the Department shall notify applicant in writing that the application:
 - 1. Cannot be processed because:
 - a. A specified item is missing, or
 - b. The Department requires an additional specified action;
 - 2. Shall be processed after the applicant submits the packet with the additional required information and performs the required action specified in the Department's notification to the applicant.
- E.** If the Department determines that the vehicle specified in the application is not eligible for a grant, the Department shall notify applicant in writing of the determination, including the reason for ineligibility.

R20-1-305. Application Process for Applicants Eligible Under R20-1-303(B)

- A.** The applicant shall submit an application packet to the Department for each vehicle for which the applicant is claiming a grant. The application packet shall contain:
 - 1. An application form prescribed by the Department with the following information:
 - a. Applicant's status as an individual or a business;
 - b. Applicant's name, address, and telephone number;
 - c. If applicant is an individual, the individual's:
 - i. Social Security number, and
 - ii. Arizona driver's license number;
 - d. If applicant is a business, the applicant's:
 - i. Taxpayer's Identification number, and
 - ii. Authorized representative's name and title;
 - e. The vehicle's:
 - i. Identification number,
 - ii. Year,
 - iii. Make,
 - iv. Model, and
 - v. GVWR;
 - f. From whom the applicant purchased or leased the vehicle, the contact for that transaction, and the contact's telephone number;
 - g. The Arizona registration date of the vehicle;
 - For the converted vehicle:
 - i. The conversion vendor's name, contact person, and the contact's telephone number;
 - ii. The conversion kit manufacturer and number;
 - iii. The conversion date; and
 - iv. The MVD Alternative Fuel Certificate date;
 - i. Whether the converted vehicle is:
 - i. Bi-fuel,
 - ii. Dual fuel, or
 - iii. Dedicated;
 - j. The type of alternative fuel the converted vehicle uses:
 - i. Compressed natural gas-CNG,
 - ii. Liquid natural gas-LNG,
 - iii. Propane,
 - iv. Electric,
 - v. Solar, or
 - vi. Hydrogen;
- 2. A signed and dated "Statement of Assurances" on a form prescribed by the Department that includes:
 - a. A statement signed by the applicant, under penalty of perjury, that the applicant intends:
 - i. To keep the vehicle registered in this state for at least three years from the date the vehicle is registered as an alternative fuel vehicle;
 - ii. To operate the vehicle more than 50 percent of the time in area A or area B as defined in A.R.S. § 49-541;
 - b. An additional statement that
 - i. The applicant owns or leases the vehicle;
 - ii. The applicant has the vehicle titled, registered, and insured in Arizona;
 - iii. The vehicle is not a recreational vehicle as defined in A.R.S. § 28-3102; and

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- iv. The vehicle is a diesel vehicle over 19,500 pounds GVWR that has been converted to operate on alternative fuel and is subject to A.R.S. § 28-4032(A).
 - c. A notarized statement as specified in A.R.S. § 41-311(6), under penalty of perjury, that the information contained in the application packet is truthful, correct, and complete;
 - d. The applicant agrees that, if the Statement of Assurances or the application packet are not truthful, correct, or complete, the Department may seek recourse or take remedial action in the Superior Court of Maricopa County, Arizona, with the applicant paying all costs of collection of any monies due the Department, including reasonable attorneys' fees.
 - 3. W-9 Federal tax form (Request for Taxpayer Identification Number and Certification) with applicant's original signature and date;
 - 4. A copy of the validated Arizona registration and Arizona title for the vehicle; and
 - 5. A copy of the contract or purchase order documenting conversion of the vehicle for which applicant requests a grant;
 - 6. If the vehicle is financed, a copy of the agreement or of the receipt indicating payment in full;
 - 7. If the vehicle is leased, a copy of the lease agreement;
 - 8. An MVD Alternative Fuel Certificate;
 - 9. The invoice for conversion including:
 - a. Conversion date; and
 - b. Conversion kit manufacturer and kit number or serial number of conversion parts.
 - B.** The Department may require verification of information provided, including original documents.
 - C.** The Department shall review an application packet for completeness and grant eligibility.
 - 1. If an application packet is complete and the applicant meets eligibility requirements, the Department shall:
 - a. Determine vehicle's priority under R20-1-307; and
 - b. If funds are available based on vehicle's priority, issue a grant to applicant; or
 - c. If funds are not available, notify applicant in writing that no grant funds remain.
 - 2. If an application packet is not complete, the Department shall notify applicant in writing that the application:
 - a. Cannot be processed because:
 - i. A specified item is missing; or
 - ii. The Department requires additional specified action;
 - b. Shall be processed after the applicant submits the packet with the additional required information and performs the required action specified in the Department's notification to the applicant.
 - 3. If the Department determines that the vehicle specified in the application is not eligible for a grant, the Department shall notify applicant in writing of the determination, including the reason for ineligibility.

R20-1-306. Application Priority and Grant Award for Applicants Qualifying Under R20-1-303(A)

- A.** The Department shall make application forms and other required forms available from the application availability date until October 1, 2001.
- B.** Within 45 days following the application availability date, the Department shall determine application priority of all complete application packets received during the 30 days following the application availability date.
- C.** The Department shall determine application priority by the date the contract or purchase order was entered into by an applicant for the replacement or conversion of a diesel vehicle.
 - 1. The applicant must have entered into the contract or purchase order after January 1, 2000, and before October 20, 2000.
 - 2. The Department shall determine priority based on the chronological order of the dates of contract or purchase order, with highest priority given to the earliest date.
 - 3. If an applicant entered into both a contract and a purchase order for the same transaction but on different dates, the Department shall use the earlier date to determine priority.
 - 4. The Department shall use a computerized randomization process to determine the grant recipients when:
 - a. Two or more applications have the same priority; and
 - b. The Department has insufficient funds to provide grants to each applicant.
- D.** If funds remain available after completion of disbursements prioritized under subsections (B) and (C), the Department shall, every 30 days until no funds remain or until authority to award grants expires, assign priority under subsection (C) to completed application packets and disburse grants from available funds.
- E.** The Department shall send written notification to the applicant of the grant determination within five working days of the award or denial date.

R20-1-307. Application Priority and Grant Award for Applicants Qualifying Under R20-1-303(B)

- A.** The Department shall make application forms and other required forms available on the application availability date.
- B.** No later than October 15, 2001, the Department shall determine the priority of all complete application packets received between the application availability date and October 1, 2001.

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- C.** The Department shall determine application priority by the date the applicant entered into the contract or purchase order for the conversion of a diesel vehicle.
1. The applicant must have entered into the contract or purchase order after January 1, 2000.
 2. The Department shall determine priority based on the chronological order of the dates of contract or purchase order, with highest priority given to the earliest date.
 3. If an applicant entered into both a contract and a purchase order for the same transaction but on different dates, the Department shall use the earlier dated document to determine priority.
 4. The Department shall use a computerized randomization process to determine grant recipients when:
 - a. Two or more applications have the same priority; and
 - b. The Department has insufficient funds to provide grants to each applicant.
- D.** If funds remain available after the Department has completed the disbursements under subsections (B) and (C), the Department shall, every 30 days until no funds remain or until authority to award grants expires, assign priority under subsection (C) to completed application packets and disburse grants from available funds.
- E.** The Department shall send written notification to the applicant of the grant determination within five working days of the award or denial date.

R20-1-308. Grant Amount

- A.** For applicants owning or leasing alternative fuel vehicles which qualify under R20-1-303(A), the Department shall award grants in the amount of the greater of \$30,000 or 30 percent of the original manufacturer's base retail price. The original manufacturer's base retail price shall not include any attachment not associated with the operation of the vehicle.
- B.** For applicants qualifying under R20-1-303(B), the Department shall award grants for the lesser of the cost of conversion or \$30,000.

R20-1-309 Protest

- A.** Any interested party may file a protest of a Department determination or proposed Department determination of:
1. Eligibility for a grant under this Article, or
 2. The applicant's priority in the awarding of the grants, or
 3. The amount of a grant under this Article.
- B.** The Director shall resolve a protest arising under subsection (A).
- C.** Any interested party may appeal the Director's resolution of a protest to the Director of the Department of Administration.
- D.** A protest under subsection (A) or an appeal under subsection (C) shall be resolved in accordance with rules of procedure contained in 2 A.A.C. 7, Article 9.